

Public Comment Hearings
September 26, 2003, 5 p.m. to 7 p.m., Nogales, AZ
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PUBLIC COMMENT HEARING RE:

DRAFT ENVIRONMENTAL IMPACT STATEMENT
TUCSON ELECTRIC POWER COMPANY
SAHUARITA-NOGALES TRANSMISSION LINE

Nogales, Arizona
September 26, 2003
5:00 P.M. to 7:00 P.M.

RAYNBO COURT REPORTING, LTD.
3625 West Gailey Drive
Tucson, Arizona 85741
520/744-2293

Reported by: Raynbo Silva, RPR, CSR, CCR
Certified Court Reporter No. 50014

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1 PANEL:
2 ANTHONY COMO, Department of Energy
3 ELLEN RUSSELL, Department of Energy
4 BRIAN MILLS, Department of Energy
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12
13 The above hearing was held at the Santa Cruz
14 County Office Building, 2150 North Congress Drive, in the
15 City of Nogales, County of Santa Cruz, State of Arizona,
16 before Raynbo Silva, RPR, CSR, CCR, Court Reporter
17 No. 50014, in and for the County of Pima, State of Arizona,
18 on the 26th day of September, 2003, commencing at the hour
19 of 5:00 P.M.
20
21
22
23
24 * * * *
25 MR. ANTHONY COMO: Good evening ladies and

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1 gentlemen. I would like to welcome you to our public
2 hearing here tonight.
3 My name is Tony Como. I am with the
4 U.S. Department of Energy. We're here tonight to collect
5 some comments from you on the Draft Environmental Impact
6 Statement that we published just about a month ago.
7 Ellen is asking me if there were anybody sitting
8 here who hadn't heard my opening remarks before, and I
9 already recognize a few people, and I have gotten used to it
10 but yes.
11 Anyway I am going to try to be brief. How have we
12 gotten here? We have an application before us for a permit
13 to allow Tucson Electric Power Company to cross the
14 U.S. International border with a transmission line.
15 If it weren't for the border crossing, DOE would
16 not be involved. However, there are other Federal agencies
17 who if this line is ever to come to fruition would have to
18 give permission to cross Federal lands. That includes the
19 U.S. Forest Service and the Bureau of Land Management. So
20 they are joint participants with the Department of Energy in
21 the preparation of the Environmental Impact Statement.
22 We are here tonight to collect your comments.
23 What are we going to do with them? After we get your
24 comments, we are going to look at them, and every single
25 comment that we get in any form in which we get it will

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1 appear in the final document.
2 And you can submit comments to us in a variety of
3 ways. You can make a statement here or have a little speech
4 here tonight. You could send us e-mails. You could send us
5 letters. You can FAX it to us.
6 No matter how we get your comments they are
7 treated equally. Just because you are here live doesn't
8 give that any more weight than a letter that someone else
9 might submit to us later on. The official close of the
10 comment period is October 14th. We would like to get your
11 comments in as close to that time as possible.
12 It's not a legal drop-dead deadline, but from that
13 point on we're going start looking at comments and start
14 preparing the draft. So the closer you get them in to that
15 date the greater assurance you'll have that we will have the
16 opportunity and the time to consider them properly and
17 evaluate them and the like.
18 I would like to introduce my colleagues here
19 tonight. On my left is Brian Mills with the Department of
20 Energy's NEPA Policy and Compliance. On my right is Ellen
21 Russell who works with me on the Presidential Permit
22 Program. Sitting in the back is Rick Ahern from the
23 Department's Office of General Counsel, the environmental
24 portion of general counsel.
25 In the opposite back of the room is Jerry Connor

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1 and Bob Suedkakmp from the U.S. Forest Service. And I guess
2 that's about it.

3 The protocols, you will notice we have a court
4 reporter up here. That's not to imply any higher level of
5 formality. She is only here so we don't miss anything you
6 say. There is a limit on how well the three of us are going
7 to be able to take notes up here. Because we have a
8 reporter we ask that whenever you get up, especially the
9 first time you get up to speak, please spell your name for
10 her, and any subsequent things that you might want to say on
11 the record, again, indicate who you are so she doesn't have
12 to remember it.

13 Speak slowly and distinctly so she can catch
14 everything you say. If you happen to be using any technical
15 terms or any terms of art, it might be helpful to spell them
16 for her. If she doesn't understand something, she will ask
17 you. She will stop the proceeding for a second and ask you
18 a clarifying question, and that will be fine.

19 I am just going to call the first person, and I
20 will indicate who will be next to speak so you can get
21 yourself prepared.

22 So I would first like to call Greg Scott, and he
23 will be followed by Nancy Valentine.

24 MR. GREG SCOTT: Thank you very much. My name is
25 Greg Scott, Gregory Scott. I live here in Nogales. I am a

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1 third generation Arizonan, and I have lived in Santa Cruz
2 County since 1975.

3 By now you've had two days of experts providing
4 reasons this power line proposal must be scrapped. Others
5 have enumerated the facts, and I can only echo those.

GS-1 6 There have to be more creative, progressive, less
7 expensive solutions to the occasional power outage in
8 Nogales. Wouldn't it be wonderful if Nogales and Santa Cruz
9 County were known for being first in something, which is
10 21st Century and positive?

11 Our County has two valuable resources, wonderful
12 people and unsurpassed scenic beauty. Even by Arizona
13 standards Santa Cruz County is a natural gem to be
14 treasured.

GS-2 15 The lack of industry means too many of our
16 citizens are forced to leave to find employment. All of the
17 power lines in the world are not going to attract meaningful
18 industry and employment to our County. That leaves us with
19 our incomparable scenic areas. This is the resource we need
20 the most, not least to protect.

21 Does the County need yet another unsightly power
22 line crossing over our beautiful wilderness to provide power
23 for others? A power line through Green Valley may have
24 benefited Fort Huachuca, but it sure ruined one of
25 Santa Cruz County's most beautiful valleys, scene of classic

Comment No. GS-1

Section 1.2 explains the roles of the Federal agencies in developing alternatives for the proposed project. Where an applicant seeks a permit for a particular business project, such as the case with TEP's proposed project, the Federal agencies generally limit their review of alternatives to those that would satisfy the applicant's proposal and decide whether that proposal is or is not worthy of receiving a permit. The Federal agencies do not review alternatives that are not within the scope of the applicant's proposal. Similarly, the agencies do not direct the applicant to alter its proposal; instead, the agencies decide whether a permit is appropriate for the proposal as the applicant envisions it. It is not for the agency to run the applicant's business and to change the applicant's proposal, but only to evaluate the environmental effects of the applicant's business proposal as offered. Accordingly, the EIS evaluates a reasonable range of alternatives, which include the full spectrum of alternatives that would satisfy the applicant's proposal.

Comment No. GS-2

An average of 30 direct jobs and approximately 31 indirect jobs would be created by the construction phase of the proposed project (see Section 4.5.1).

Potential impacts to cultural, recreational, and visual resources are analyzed in Sections 4.4, 4.1.2, and 4.2. Section 3.5 has been revised in the Final EIS to describe existing socioeconomic aspects of tourism in the project area, and Section 4.5 has been revised to discuss potential impacts to socioeconomic aspects of tourism.

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1 movies, history, spreads in Arizona Highways and such now
2 defaced by marching power poles.

3 Only a person who has never visited the areas west
4 of Nogales or is exceedingly greedy would suggest that Bear
5 Valley, Sycamore Canyon and the west flank of the Atascosas
6 and Tumacacoris would benefit from any sort of power line
7 there. It is our own last best place.

GS-3 8 Another question, why would an area known for
9 smuggling for well over a century need another route heading
10 north, a nice wide one going straight up the valley? I
11 don't know.

GS-2 12 If we ruin this precious resource, one we've
cont. 13 already just begun to understand, we lose any chance to
14 include its history and beauty for cultural tourism and
15 ecotourism. Too bad. We need more power for more
16 billboards, such as that.

GS-1 17 It is our history and scenic beauty which will
cont. 18 provide opportunities in the future. We have only begun to
19 realize how the market can profit from what we have right
20 here. I urge you to look to less expensive, more creative
21 solutions to our electricity needs.

22 I would like to close with something personal.
23 Every year for nearly 20 years a large group of friends,
24 mostly Arizonans, some more recently arrived, a large group
25 of friends begins each New Year's Day with a hike at the old

Comment No. GS-3

In response to public comments, the Federal agencies again solicited comments from the U.S Border Patrol. Based on the U.S. Border Patrol's response (USBP 2004) to the Federal agencies' request, the Federal agencies have revised Sections 4.1.1, Land Use; Section 4.12, Transportation; and Chapter 5, Cumulative Impacts of the Final EIS. The U.S. Border Patrol's response generally re-enforced the information on which the relevant analysis in the Draft EIS was based. The U.S. Border Patrol stated that the roads associated with the construction and maintenance of the proposed project would contribute to an increase in illegal immigrant and narcotic smugglers in the area and affect U.S. Border Patrol operations. The U.S. Border Patrol stated that although the proposed project would not create a single north-south route and roads would be closed or otherwise blocked, illegal immigrants and narcotic smugglers would be attracted to the area to use portions of the proposed access roads, resulting in a need for the U.S. Border Patrol to increase its presence in the Coronado National Forest.

For more information on the effects of illegal immigration, see *Report to the House of Representatives Committee on Appropriations on Impacts Caused by Undocumented Aliens Crossing Federal Lands in Southeast Arizona, April 29, 2002* (House 2002).

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1 Atascosa Peak Fire Lookout, a bit of literary trivia, one of
2 the Department of Energy's great fans, Ed Abbey, was a fire
3 lookout there. There they encounter all that is best about
4 living here, unsurpassed views in every direction.

5 There they can trace the 17th Century route taken
6 by Father Kino and Father Saltera as they came into Arizona,
7 what is now Arizona, it's Santa Cruz County, for the first
8 time on their way to the village of Tumacacori.

9 Below the lookout is Bear Valley, Ruby Road,
10 Sycamore Canyon. Beyond is the Altar Valley, the
11 Baboquivaris, to the east Santa Cruz Valley, mountain ranges
12 beyond count. Even on a cold winter morning the vistas are
13 breathtaking and fill one with a sense of renewed hope.

14 These friends used to carry their children to the
15 lookout. Now their children carry their own kids to the
16 top. The decades and generations go by. The specialness of
17 this place will be forever diminished by an intrusive power
18 line below. Whatever it is that binds these families
19 together to this place on that day will be lost. The
20 benefits of this line are few. The benefits of wild places
21 is beyond measure.

22 Thank you very much.

23 MR. ANTHONY COMO: Thank you Mr. Scott.

24 Nancy Valentine to be followed by Barton Santello.

25 MS. NANCY VALENTINE: Good evening. I am Nancy

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1 Valentine. I am speaking on behalf of the Maestros Group.

2 In the Federal Register Notice dated July 10th,
3 2001, the scope of the EIS that TEP was to engage in
4 included the following passage, and I quote, "The EIS will
5 also consider alternatives to the proposed transmission line
6 including to the extent practical, one, no action
7 alternative and, two, construction of a power plant in the
8 U.S. closer to the U.S.-Mexico border with a shorter
9 transmission line extending to the border, an alternative
10 concept for supplying electric power to the target region,"
11 unquote.

12 The notice of intent also states, and I quote,
13 "DOE has determined that the issuance of the Presidential
14 Permit would constitute a major Federal action that may have
15 a significant impact upon the environment within the meaning
16 of the National Environmental Policy Act of 1969, NEPA. For
17 this reason DOE intends to prepare an EIS to address
18 reasonably foreseeable impacts from the proposed action and
19 alternatives," unquote.

20 The draft EIS under consideration fails to
21 consider the alternatives of a power plant closer to the
22 border. Why?

23 DOE acted responsibly and was wise in its original
24 decision to take a comprehensive approach when structuring
25 the scope of the EIS to afford a comparison of impacts of

NV-1

Comment No. NV-1

Section 1.2 explains the roles of the Federal agencies in developing alternatives for the proposed project. Where an applicant seeks a permit for a particular business project, such as the case with TEP's proposed project, the Federal agencies generally limit their review of alternatives to those that would satisfy the applicant's proposal and decide whether that proposal is or is not worthy of receiving a permit. The Federal agencies do not review alternatives that are not within the scope of the applicant's proposal. Similarly, the agencies do not direct the applicant to alter its proposal; instead, the agencies decide whether a permit is appropriate for the proposal as the applicant envisions it. It is not for the agency to run the applicant's business and to change the applicant's proposal, but only to evaluate the environmental effects of the applicant's business proposal as offered. Accordingly, the EIS evaluates a reasonable range of alternatives, which include the full spectrum of alternatives that would satisfy the applicant's proposal.

A new power plant in Nogales is not a viable alternative to a new, second transmission line (part of TEP's proposal). Therefore, the alternative of a new power plant is not evaluated in detail in this EIS (refer also to Section 2.1.5, Alternatives Considered But Eliminated From Further Analysis).

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NV-1
cont.

1 the transmission lines and a power plant alternative.
2 What happened between July 10th, 2001, and today
3 to have made this opportunity for comparison omitted?
4 I have attended many of the TEP hearings, and I
5 have heard many comments from the public in support of a
6 power plant as an alternative option and no objections.
7 As a matter of fact, the alternative of
8 distributed generation is an option that two other entities
9 that we know, the City of Nogales and one initiated by a
10 gentleman by the name of Earl Wilson, have been found to be
11 worth exploring to take care of local needs.
12 We applaud these efforts for they, too, have come
13 to recognize the benefits of generation, not transmission
14 for our communities. The Maestros Group continues its
15 exploration of a power plant at the border to meet the
16 target market of Mexico which will meet strict environmental
17 and quality of life standards for the omnibus of Nogales,
18 for Santa Cruz County and Sonora.
19 Early on the Maestros Group met with the managers
20 of TEP and introduced a plan for construction of a power
21 plant at the border that had by that time become regarded as
22 a viable and feasible concept by other energy industry
23 executives and financial entities.
24 TEP did not accept an offer to continue the
25 discussion nor to review additional data, financial as well

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NV-1
cont.

1 as environmental, which would have been made available to
2 them by Maestros Group if they had chosen to explore
3 further.
4 What was the reason TEP gave for their lack of
5 interest? It wasn't that the power plant wasn't feasible.
6 Their reason was, quote, "It's not in our business plan,"
7 unquote.
8 A power plant might not have been in their
9 business plan, but so what? Neither was a no action
10 alternative.
11 It is curious that in past public hearings the
12 power plant alternative was received favorably, yet in the
13 DEIS it is not a consideration. Modification to the scope
14 of the DEIS, however it came to be, to eliminate the power
15 plant alternative is a fatal omission to this process.
16 The Federal Courts found DOE lacking in its DEIS
17 process in the Mexicali Presidential Permit scenario.
18 Has DOE taken the Mexicali road here and allowed
19 an incomplete environmental study to come forward which is
20 also subject to being knocked down in court?
21 I urge DOE to reject TEP's Draft EIS and to allow
22 for the continuation of this process to include the power
23 plant alternative as originally intended.
24 Thank you.
25 MR. ANTHONY COMO: Thank you, Ms. Valentine.

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1 Mr. Santello to be followed by Marshall.
2 MR. BARTON SANTELLO: My name is Barton Santello,
3 and I'm from Arivaca. And Arivaca is a few miles west of
4 the proposed line through the western route.

BS-1 5 Before I start I would just like to request to the
6 Department of Energy to extend the public comment period
7 15 to 30 days beyond the October 14th deadline as stated in
8 the Federal Register Notice in order that the public can
9 adequately address the magnitude of the DEIS. There is a
10 lot of information there, and we are still trying to digest
11 that information. So thank you.

BS-2 12 My general statement, as a private citizen of
13 Arivaca, Arizona, and the affected area of Tucson Electric
14 Power's proposed Sahuarita-Nogales transmission line, I urge
15 all of the cooperating U.S. Government agencies to decide
16 the no action alternative following submittal of the Final
17 Environmental Impact Statement in 2004.

BS-3 18 The applicant's original State mandate from the
19 Arizona Corporation Commission as discussed on Page S-10 of
20 the summary EIS requires only a 115-kV line be constructed.
21 TEP's expanded scope to include a 345-kV line
22 across an international boundary is a corporate decision
23 based on the economics of electrical transmission and not
24 one of the public's interest.
25 The Final EIS should also make clear for the

Comment No. BS-1

The public comment period began on August 22, 2003, and officially concluded on October 14, 2003, for a total of 53 days. An extension of the comment period was not granted because the Federal agencies deemed this comment period to be reasonable, and it exceeded the requirements set forth by CEQ Regulations (40 CFR 1506.10[c]) for a Draft EIS public comment period of at least 45 days. Although the official public comment period for comments on the Draft EIS closed on October 14, 2003, the Federal agencies continued to accept comments after the close of public comment periods, and considered them, to the extent feasible, in the preparation of the Final EIS.

Comment No. BS-2

The Federal agencies note the commentor's preference for the No Action Alternative.

Comment No. BS-3

Section 1.1.2, The Origin of TEP's Proposal: TEP's Business Plan and the Proceedings of the Arizona Corporation Committee, of the Final EIS includes an explanation of the relevant ACC decisions and the relation to TEP's proposed project. The Federal agencies agree that ACC Decision No. 62011 (ACC 1999) does not require a 345-kV transmission line. TEP's purpose and need for the proposed project, as provided to DOE in TEP's Presidential Permit Application, is "...to construct a double-circuit 345 kV, alternating current transmission line to interconnect the existing electrical systems of TEP and Citizens Utilities ("Citizens") in Nogales, Arizona, with a further interconnection to be made from Nogales, Arizona to the CFE transmission system...." As discussed in Section 1.2, each of the Federal agencies are responding to TEP's proposal. Approval by each Federal agency would only indicate that each agency has no objection to the project, but would not mandate that the project be built.

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BS-3 cont.	<p>1 record what the proposal is not. The proposal by TEP is not</p> <p>2 the result of a Federal directive to improve or expand the</p> <p>3 nation's electrical infrastructure, and from what I know it</p> <p>4 has not been suggested that this is a national security</p> <p>5 related construction project.</p>
	<p>6 Nogales is an end node in the nation's electrical</p> <p>7 grid system, and a 115-kV line as mandated by the ACC would</p> <p>8 suffice in providing sufficient and reliable power to the</p> <p>9 Nogales area, and/or a power plant in the Nogales area would</p> <p>10 be acceptable also.</p>
BS-4	<p>11 The cooperating agencies will find based on review</p> <p>12 of the Final EIS that TEP's 345-kV transmission line</p> <p>13 proposal exceeds the mandated improvements to electrical</p> <p>14 reliability, imposes significant environmental hardship on</p> <p>15 the biologically rich and visually attractive Coronado</p> <p>16 National Forest and that TEP's purpose and need is more of a</p> <p>17 corporate self-serving purpose and need. Thus this proposal</p> <p>18 is not in the public interest or the national interest.</p> <p>19 The EIS must contain all of the essential</p> <p>20 information and facts in its final form. I believe a</p> <p>21 quality version of the EIS that includes all of the relevant</p> <p>22 public comment will reveal the damaging aspects of this</p> <p>23 proposal and that reasonable alternatives exist to the</p> <p>24 proposed lines.</p>
BS-5	<p>25 A no action decision by the cooperating agencies</p>

Comment No. BS-4

The ACC is vested with the state's authority to decide how it believes energy should be furnished within Arizona's borders (for example, the need for and effectiveness of transmission lines within its borders). Refer to the revised text in Section 1.1.2, The Origin of TEP's Proposal: TEP's Business Plan and the Proceedings of the Arizona Corporation Committee, that provides explanation of the jurisdictions and authorities of the state and Federal agencies, and their relationship to this NEPA analysis.

Section 1.6.6 of the Final EIS explains that there are other factors in addition to environmental considerations that may be considered in the decision of each Federal agency on the proposed project, and that the decisions of each agency will be explained in their respective RODs.

Comment No. BS-5

The actions that TEP may take if the proposed project is not approved are speculative. Therefore, the actions suggested by the commentor are not included as part of the No Action Alternative.

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BS-5 cont.	<p>1 would allow TEP to pursue other electrical generation and</p> <p>2 distribution projects that are truly in the public interest</p> <p>3 that would protect the environment and create new</p> <p>4 sustainable business opportunities for TEP.</p>
	<p>5 What I would like to speak about in a little bit</p> <p>6 more detail today, I hope to submit further comments,</p> <p>7 actually, written comments, but for today's discussion I</p>
BS-6	<p>8 would like to talk about what I am learning about is the</p> <p>9 cumulative effects under the National Environmental Policy</p> <p>10 Act and how the current draft of the DEIS does not</p> <p>11 adequately address or is consistent with procedural</p> <p>12 provisions of NEPA with respect to cumulative effects in my</p> <p>13 opinion.</p>
	<p>14 Pages S-14 and S-15 of the referenced summary DEIS</p> <p>15 discuss issues that are considered out of scope of the EIS.</p> <p>16 I contend that some of these issues are not out of scope and</p>
BS-7	<p>17 further argue that matters addressed by the public in past</p> <p>18 scoping meetings may actually be critical issues that would</p> <p>19 assist the DOE in properly meeting the intent of NEPA.</p>
	<p>20 The local community is intimately familiar with</p> <p>21 the environment here and the needs of the area and thus are</p> <p>22 good sources of ideas and alternatives to the proposal to</p>
	<p>23 create a win-win solution for everyone.</p>
	<p>24 I have written down a few of the laws here that</p>
	<p>25 based on the Council of Environmental Quality's regulations</p>

Comment No. BS-6

Chapter 5, Cumulative Effects, has been revised in the Final EIS in response to several commentors' concerns about the adequacy of the cumulative effects analysis in the Draft EIS.

Comment No. BS-7

Section 1.6 of the Final EIS has been modified to provide additional explanation of the NEPA process in general and the scoping process in particular. As noted, during the scoping process, the public provides comments directly to the Federal agencies. The Federal agencies consider these comments in determining the alternatives, issues, and environmental impacts to be analyzed in the EIS. Section 1.6.2, Issues Outside of the Scope of the EIS, explains the issues raised during public scoping that the Federal agencies considered to be outside the scope of the EIS. The Federal agencies responses to specific public comments on the Draft EIS on a variety of issues considered out of scope are contained within the comment responses.

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1 that make up the framework of the EIS process and NEPA and
2 should be considered in the EIS. And one of them under
3 40 CFR 1500 through 1508 in implementing the procedural
4 provisions of NEPA define cumulative impact as the impact on
5 the environment which results from incremental impact of the
6 action when added to the past, present and reasonably
7 foreseeable actions regardless of what agency, Federal or
8 non-Federal agency, or person undertakes such actions.
9 Cumulative impacts can result from individually minor but
10 collectively significant actions taking place over time.

11 The Council of Environmental Quality codifies
12 cumulative effects in relation to the EIS process by saying:
13 Only by reevaluating and modifying alternatives in the light
14 of projected cumulative effects can consequences be
15 effectively avoided and mitigated.

16 And then indirect effects under NEPA,
17 Paragraph 1508.8(b): Indirect effects which are caused by
18 the action and are later in time or further removed in
19 distance but are still reasonably foreseeable. Indirect
20 effects may include growth inducing effects and other
21 effects related to induced changes in the pattern of land
22 use, population density, growth rate and related effects on
23 air, water and other natural systems including ecosystems.

BS-8 | 24 Given this brief framework I would like to discuss
25 a couple of issues in the DEIS that I believe were

Comment No. BS-8

The Federal agencies do not have any information suggesting that any power plant construction in Mexico is reliant upon or otherwise connected to TEP's proposed project. Therefore, the potential for construction of power plants in Mexico is not a connected action and is not analyzed in Chapter 4, Environmental Effects, of the EIS.

Chapter 5, Cumulative Effects, of the Final EIS has been augmented to discuss the growth of electricity demand in Mexico and the United States and the potential for new power plants, and to describe qualitatively the potential impacts in the United States (including air quality impacts) from power plant construction in southern Arizona and Sonora, Mexico. Chapter 5 has also been revised to describe the regulation of power plants in Mexico (including coordination between the United States and Mexico), potential fuel sources, and associated emissions.

If TEP's proposed project is approved by each of the Federal agencies, then there would still be a variety of events that could preclude TEP from implementing this project, such as the possibility of failure by TEP to secure a power sales contract with CFE. There is no requirement that a contract for sale of power be in place before DOE can issue a Presidential Permit. Issuance of a Presidential Permit by DOE would only indicate that DOE has no objection to the project, but would not mandate that the project be built.

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BS-8
cont.

1 classified as out of scope but I believe are significant.

2 Issue one, Mexico may build power plants. This
3 was public comment that Mexico may build power plants
4 resulting in the sale of electricity to the United States
5 and pollution, air pollution as a result.

6 The DEIS comment was the DOE is not aware of any
7 proposals by Mexico to build power plants and to sell
8 electricity to the United States in the area covered by this
9 DEIS. Thus the DOE considers this assertion to be
10 speculative.

11 I have been doing a lot of reading about Mexico.
12 And apparently I read that there is upwards of 20 power
13 plants in planning or development in northern Mexico. And I
14 know that includes probably areas that are out of the scope
15 of the DEIS. In Mexicali there is Semptra and InterGen
16 plants which are a potential for pollution in the United
17 States.

18 For the DEIS to suggest that the climate for
19 construction of new power plants in Mexico is speculative I
20 believe is misleading.

21 The DOE's own Web site has information, has an
22 information Web page heading called: Facilitating U.S.
23 trade in electricity. And the page states: U.S. trade in
24 electricity, electric energy with Canada and Mexico is
25 rising, bringing economic and reliability benefits to the

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BS-8
cont.

1 United States and its trading partners. Within the Office
2 of Fossil Energy's Coal and Power Organization an
3 electricity import/export team is responsible for
4 authorizing the export of electricity and the issuance of
5 permits for construction, connection, operation and/or
6 maintenance of electrical transmission facilities at the
7 border, international border.
8 The current administration is aggressively backing
9 exporting electricity to Mexico, and U.S. electrical
10 companies are beginning to buy stakeholding positions in
11 Mexican power plants in order to capitalize on future
12 import/export of electricity.
13 I will be submitting additional details of the
14 power plant planning and development of projects that I have
15 come across in my report to the DOE by the deadline that can
16 be incorporated and related to this DEIS.
17 The new power plants will be a major source of air
18 pollution attacking the United States and affecting health
19 and clean air many of us have moved to southern Arizona to
20 enjoy.

BS-9

21 Issue Number 2 under out-of-scope issues: The
22 public discussed alternatives that included TEP and other
23 entities building a power plant in Nogales.
24 The DEIS comment was, "These suggested
25 alternatives would not fulfill TEP's purpose and need and

Comment No. BS-9

Section 2.1.5, Alternatives Considered but Eliminated From Further Analysis, has been augmented in the Final EIS to provide a brief analysis of this alternative, and explain why it is not evaluated in detail in the EIS (see also the response to comment BS-4 above).

The ACC is vested with the state's authority to decide how it believes energy (including energy for the public) should be furnished within Arizona's borders, and DOE does not second-guess the ACC on this matter. As stated in Section 1.2.2, Federal Agencies' Purpose and Need Statements, an agency's statement of purpose and need explains what the agency is called upon to do, given its authority, and it is from this statement of purpose and need that an agency identifies the range of reasonable alternatives it will consider in the EIS. In an applicant-initiated process, such as TEP's proposed project, the range of reasonable alternatives analyzed in detail in the EIS is directly related to the applicant's purpose and need.

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BS-9
cont.

1 therefore not within the scope of this EIS."
2 My comment to this is that the DOE's own Federal
3 Register Notice FR 01-17224 dated Tuesday, July 10th, 2001,
4 states: "The EIS will consider alternatives to the proposed
5 transmission lines including to the extent practicable
6 including construction of a power plant closer to the
7 U.S.-Mexico border with a transmission line extending to the
8 border as an alternative concept to supplying power to the
9 target region."

10 This July 10th, 2001 statement in the Federal
11 Register is in conflict with the DOE's rejection of this
12 consideration in the subject DEIS.

13 Further, the DOE states that the alternative power
14 plant does not fulfill TEP's purpose and need. This
15 statement is in conflict with Page S-11 of the subject DEIS
16 where it is stated that the DOE's mission in undertaking the
17 EIS process is to determine whether the proposed action is
18 in the public's interests, and my comment is not TEP's
19 interests.

20 Therefore, the EIS must be rewritten to address
21 reasonable alternatives as published in the said Federal
22 Register Notice.

BS-10

23 Issue 3 is the impact of Public Service of
24 New Mexico's, PNM, proposed transmission line project.

25 The DEIS comment is: "The consideration of

Comment No. BS-10

Section 5.2 has been modified to update the status of the PNM proposal with the three Federal agencies involved. As of October 2004, PNM indicated to DOE its intention to withdraw its Application for a Presidential Permit.

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BS-10 cont.	1 impacts from PNM's proposal in this EIS is limited to
	2 potential cumulative impacts because TEP and PNM proposals
	3 are at different stages of decision making."
	4 My response to that is regardless of whether PNM's
	5 proposed project is a separate EIS, it is reasonable to
	6 assume that PNM will move forward with such a project and
	7 will have compounding and damaging effects on the
	8 environment, people, and it's plausible that PNM and TEP
	9 lines some day could run parallel to each other into Mexico.
	10 Why should this not be considered? Page S-14 of
11 said DEIS provided verbiage of the CEQ guidance for	
12 cumulative effects, and it said: "Cumulative impacts have	
13 been addressed in this EIS to the extent that future	
14 projects are, one, reasonably foreseeable, and PNM's project	
15 is reasonably foreseeable and, two, the potential resource	
16 area impacts overlap.	
17 And when reading on the DOE's Web site I came	
18 across the paragraph that said: "Public Service Company of	
19 New Mexico is proposing to build power lines originating at	
20 the switch yard of the Palo Verde Nuclear Generating Station	
21 30 miles west of Phoenix and extend south approximately	
22 160 miles crossing the U.S.-Mexican border within the	
23 vicinity of Nogales, Arizona.	
24 So that sounds pretty close to what --	
25 MR. ANTHONY COMO: Mr. Santello, do you have a lot	

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	1 more? I don't want to limit time too much, but I do want
	2 everybody to have an opportunity.
	3 MR. BARTON SANTELLO: Sure. I am just going to
	4 close.
	5 MR. ANTHONY COMO: Thank you.
	6 MR. BARTON SANTELLO: In summary, the purpose of
BS-3 cont.	7 TEP applying for the Presidential Permit is to connect with
	8 the Mexican electrical system.
	9 Per Page S-11 of the Summary DEIS the purpose and
BS-6 cont.	10 need for DOE action is to determine whether it is in the
	11 public's interest to grant or deny a Presidential Permit.
	12 And I hope that the cumulative effects analysis is included
BS-8 cont.	13 more comprehensively in the Final EIS.
	14 There was also discussion about speculation. The
	15 DOE -- since TEP's lines are going to connect into the
	16 Mexican grid, the public should be allowed to create a
	17 reasonable framework for speculation on the future effects
	18 and impact of the 345-kV transmission line and have those
	19 assumptions included in the EIS.
	20 The DOE is in effect allowing TEP to propose to
	21 build these transmission lines with TEP speculating on
	22 selling electricity to Mexico where the public is not aware
23 of any contracts that currently exist.	
24 Further, the Mexican government has not even	
25 committed to a level of participation in international	

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BS-8 cont.	1 interconnect proposals.
	2 If the DOE does not allow the public for which
BS-7 cont.	3 interest the DOE is working to provide a reasonable input
	4 with regards to cumulative effects under NEPA then the DOE
	5 must vote no action in order not to support corporate
	6 speculation.
	7 That's it.
	8 MR. ANTHONY COMO: Thank you very much.
	9 Mr. Magruder to be followed by Paul Hathaway.
	10 MR. MARSHALL MAGRUDER: Good evening, Mr. Como,
	11 Ms. Russell and Mr. Mills. As you know, I have been here
	12 before, and I have a few more comments to make.
	13 And this section will be on the subject of cost.
	14 I want to talk about the cost of the system because the cost
	15 involves a lot of different elements in this case.
	16 We have several ways to look at cost, but in the
	17 end all prudent cost are reimbursable, thus absorbed by
	18 either the ratepayers or the shareholders.
	19 Utilities in general prefer to recover all costs
	20 from ratepayers. Why would they want to do that? So they
	21 can maximize their profits for their shareholders. It's
	22 really simple. So there is a conflict between ratepayers
	23 and shareholders, and it exists in this industry and is
	24 arbitrated in this State by the Arizona Corporation
	25 Commission.

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MM-1

1 The Department of Energy's rules are fairly clear.
2 It says: "Any imprudent cost is not reimbursable. I am
3 only going to discuss reimbursable costs because marketing
4 and taking people out to lunch are not reimbursable costs,
5 and I'm not going to worry about that.
6 First, we have transmission line capital costs.
7 This is the cost of the system which includes the
8 environmental studies that are being discussed today. And
9 it includes the costs to TEP to host this nice meeting,
10 which will come through the Department of Energy. I assume
11 they paid.
12 Oh, the government paid for this meeting? Oh.
13 You paid for the doughnuts?
14 MS. ELLEN RUSSELL: Every penny.
15 MR. MARSHALL MAGRUDER: That's good. I'm glad to
16 know my taxpayer money is going for something.
17 Well, except for this meeting Tucson Electric is
18 paying for the cost of conducting the Environmental Impact
19 Statement. Sorry. I'll change that.
20 The environmental studies are reimbursable costs.
21 Thus TEP is not losing money because they are doing prudent
22 environmental analysis. They will not have to absorb this
23 cost as it becomes a capital cost and capital costs in this
24 case is what TEP spends for its total cost for the
25 transmission line system.

Comment No. MM-1

The ACC and any associated state rules or regulations address electricity rate and cost reimbursement issues within the State of Arizona. Because the Federal agencies cannot anticipate how the ACC may adjust consumer electricity rates in light of the proposed project, the potential change in consumer electricity rates is not addressed in the EIS.

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1 In most industry capital costs are shareholders'
2 responsibility because it's what the company spends money on
3 to get new business so it can grow.
4 Utility industries, however, have rate cases.
5 They argue that capital costs should be absorbed by
6 ratepayers, and consumer advocates such as in our Arizona
7 Residential Utilities Consumer Organization, RUCO, takes the
8 side for the ratepayers. So this conflict gets resolved
9 every time.
10 Ultimately this is decided but it won't be known
11 for the Santa Cruz customers, for the people in the room and
12 for the people in this County until UniSource Energy or its
13 electric subsidiary, UniSource Energy Services Company, UES,
14 or its electrical subsidiary, UNS Electricity, Inc., our new
15 electricity company files a rate case in August of 2007.
16 So the costs that are incurred by TEP are not
17 being reimbursed today, but they will be filed in 2007.
18 Mr. Pignatelli, who works for UniSource as their
19 CEO and president, was very upset at the recent ACC hearings
20 when he was told he could not file for these costs in the
21 year 2005. He also testified at the same hearing that he
22 expects Santa Cruz customers to pay \$20 million in capital
23 costs for this system. That's between \$2 and \$3 million a
24 year. That's between \$11.11 and \$16.60 per person for the
25 15,000 customers here. In addition, reimbursable costs have

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1 interest added. Thus this will be higher than the numbers I
2 just quoted, which I estimate will be \$15 a month per
3 customer per month for the capital cost of this transmission
4 system.
5 In addition to what's been testified before the
6 Federal Energy Regulatory Commission, they have authorized
7 transmission line costs to also include a maximum return on
8 investment of 12 percent, not a maximum return, a guaranteed
9 return on investment of 12 percent. This is a profit
10 incentive added to the total cost for transmission line
11 systems reimbursed by the ratepayers.
12 Initially let's look at what these costs turn out
13 to be from their application on Page 10 to the Arizona
14 Corporation Commission.
15 Substation costs and modification and changes at
16 three substations, and I will round the numbers off to make
17 it a little easier, they are in their written form:
18 \$9.9 million.
19 Transmission line costs, which includes the
20 construction and right-of-way estimates: Western route:
21 \$63,700,000; Central route: \$56,400,000; Eastern route:
22 \$59,900. These are all millions of dollars.
23 Totals: Western route: \$73.7 million; Central
24 route: \$66.4 million; Eastern route: \$70 million.
25 This is a lot of money. During the recent

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1 purchase power and TEP Citizens cases it was pointed out in
2 testimony that the TEP transmission line would now cost
3 \$87-1/2 million, which has increased at \$14 million for the
4 western route since its ACC filing.

5 TEP claims to have spent \$6 million in preliminary
6 design so far, which includes environmental studies.

7 That \$87-1/2 million does not include the
8 12 percent FERC return on investment, and thus the
9 recoverable capital costs for this project really will be
10 about \$102 million.

11 Let's look at the second cost, second option.
12 115 kilovolt line on Page 16 of the project development
13 agreement and the same ACC application I talked about a
14 minute ago in Exhibit J-5, Page 16. That alternative
15 planned by Citizens the construction costs was estimated
16 with this 115 kilovolt alternative at \$20.5 million. That's
17 about a fifth of the cost of this major system.

18 A third way to compare the numbers. On August 8th
19 during an investors' conference call Mr. Pignatelli, the CEO
20 I mentioned awhile ago, said he purchased a 70 megawatt
21 power plant in Tucson for \$20 million.

22 So these are really the three alternatives. And I
23 did this on my own. I'm sure it could have been done in the
24 EIS.

25 Which of these three options, the 345 kilovolt

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1 line, 115 kilovolt line or the local generator, which all
2 equal about \$20 million costs to the ratepayers, is the
3 best?

4 Wait. Let's wait until I talk about the next
5 thing called wheeling charges which only affects
6 transmission lines. The second cost in this system is
7 transmission line usage costs commonly called wheeling
8 charge.

9 In the ACC application the Tucson Electric project
10 development agreement between Citizens, which is now UES,
11 and TEP, which we have to remember is a separate independent
12 company, it is not related to our local electricity company,
13 it is a separate independent company under UniSource Energy,
14 Inc., Tucson Electric, UniSource Electric Services, Inc.,
15 second tier companies. They are independent, separate
16 companies, separate books. If they get their books mixed
17 up, they will never get through this. They will be in
18 trouble forever. But they are separate companies.

19 Citizens agreed, which now is UES, to purchase
20 100 megawatts of firm, which is the most expensive form of
21 electricity, on this transmission line system that's being
22 designed for backup secondary purposes only.

23 What firm means is that it's always there, 24/7.
24 It's guaranteed. They pay extra premium, and that month
25 that electricity is going to be sitting on that power line.

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1 The transmission line cost called wheeling charge for the
2 use of the Tucson Electric transmission line as testified in
3 the ACC Siting Hearings is \$2.33 per megawatt month. Most
4 people talk in terms of hours. Megawatt month. Kilowatt
5 hour month. Excuse me. Let me try it again.
6 \$2.33 per kilowatt per month, which turns out to
7 be \$233,000 per month for 100 megawatts of power for the
8 reserve backup requirements for this County.
9 This equates to \$15.33 per month per customer in
10 Santa Cruz County to pay for sitting on a power line
11 100 megawatts in case we need the electricity.
12 During the recent purchase power case I submitted
13 a data request asking -- I didn't know what a data request
14 was until I got in that case, I am not an attorney, but
15 attorneys know what they are. I submitted a data request
16 query asking why should we pay for 100 megawatts of
17 electricity when the maximum demand in this County has never
18 exceeded 60 megawatts of electricity. And their response
19 was that 60 megawatts of firm delivery might be considered.
20 This would reduce our monthly costs from \$15.33 to only
21 \$9.20 per month per customer.
22 I would like to also state that any agreement that
23 TEP has made with me in that answer would probably not be
24 decided and definitely won't be decided until August of
25 2007. And so I wouldn't bank a lot of trust on comments

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1 they made on that data request.
2 The wheeling charge is very important to TEP
3 because this is the toll booth charge that it will use to
4 make money using its transmission line.
5 And I will use a smaller case after discussion
6 yesterday. For 1,000 megawatts of continuous usage TEP will
7 receive \$2,330,000 per month in revenues with 10 percent of
8 that being paid by the UES customers in Santa Cruz County.
9 Annually times 12 this becomes \$27,960,000 in
10 wheeling or toll booth charges on this transmission line.
11 This means that the \$87-1/2 million in capital
12 costs from TEP's viewpoint is paid off in three years two
13 months, a very short time. And more importantly after that,
14 after that time all of the wheeling charges minus operations
15 and maintenance costs are profit.
16 And actually, the \$87-1/2 million they got, the
17 best part above that, they are also going to get the FERC,
18 12 percent credit from the benefit, they get that free.
19 So TEP can make \$27.9 million if it sold space on
20 this line per year. TEP testified during the Line Siting
21 Hearings it really didn't care what direction the
22 electricity goes. TEP will always collect this charge with
23 Santa Cruz County paying 10 percent of this, not to our
24 electric company, not to UES. UES will be paying it to TEP
25 but to subsidize the TEP ratepayers or shareholders in

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1 Tucson.

2 Third cost that occurs with this case. First is
3 capital. Next is the use of the line. The third cost is if
4 we use some electricity, we have electricity costs.

5 Based on statistics during our most unreliable
6 five-year time period we used about 2.05 hours of backup
7 power on this line. A new Tucson Electric agreement with
8 the Pinnacle West Capital Corporation, Arizona Public
9 Service Company, we now purchase power on a fixed price
10 contract in this County for \$58.79 per megawatt hours.

11 For 2.05 hours, say, for a 50 megawatt demand,
12 which is very high, we would then spend approximately
13 \$7,348.75 per year. This is about 4 cents per month per
14 customer in this County.

15 Let's then summarize the three costs that we pay
16 for electricity to use this transmission line. The capital
17 costs I estimate are approximately \$15 per customer per
18 month in this County. The use of the line is \$15.33 per
19 customer per month in this County. The electricity cost per
20 month 4 cents. Total cost: \$30.37.

21 Now wheeling charges are not charged per local
22 power plant. So those numbers and the cost is about the
23 same, we would pay about \$15 a month for a local power plant
24 or we will pay about \$30.37 for the use of two hours of
25 electricity on this transmission line.

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1 Why do you think the people in this County
2 consider this alternative of the TEP transmission line not
3 favorable?

4 Because our average rate was \$58 a month for
5 electricity per customer before UniSource bought Citizens on
6 the 10th of August of this year. It's now \$71 per month per
7 customer for the average load. And in 2007 it will be
8 approximately \$109 per customer per month. That is a major
9 increase in this County and has a significant impact on
10 fixed income people and the quality of life and business
11 development and economic development and the survival of
12 this County.

13 The electric rates as designed by the previous
14 electricity company required commercial businesses pay
15 40 percent more than residential rates. Nationwide
16 commercial rates are about 80 to 90 percent residential
17 rates. It was deliberately constructed, our rate structure,
18 to discourage industry in this County, also, to discourage
19 it in Mohave County so that industry would be located in
20 Tucson and Phoenix.

21 The recent rate case had a result of \$138 million
22 flowing from Santa Cruz County and Mohave County to
23 subsidize the electric company in Phoenix. This County
24 cannot afford it. We cannot afford these kind of
25 exorbitant, outrageous, and I requested an investigation in

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MM-2

1 front of the Arizona Corporation Commission on the I would
2 call it illegal charges that were disputed by everyone
3 involved, including Citizens disputed the charge. They
4 refused to file and litigate these costs.

5 Something is wrong. And I believe that the local
6 power plant will be the cheapest, best for the people in
7 this State, in this County.

8 Thank you.

9 MR. ANTHONY COMO: Paul Hathaway followed by Kurt
10 Bahti.

11 MR. PAUL HATHAWAY: Good evening. My name is Paul
12 Hathaway. I want to thank you for coming down and listening
13 to our comments, and I will keep mine short.

14 I am a board member of the Nogales Santa Cruz
15 County Economic Development Foundation, and I am also a
16 board member of the Nogales Santa Cruz County Chamber of
17 Commerce.

18 Back in 2000, the year 2000, the Chamber of
19 Commerce has a government affairs committee, and the
20 question about power, future power requirements for the
21 County came up. There was questions about reliable power.
22 And we did receive information from Citizens Utilities
23 insofar as what the future looked like insofar as power
24 delivery, and it did not look good.

25 So we, as a chamber, made a formal decision to go

Comment No. MM-2

A new power plant in Nogales is not a viable alternative to a new, second transmission line (part of TEP's proposal). Therefore, the alternative of a new power plant is not evaluated in detail in this EIS (refer also to Section 2.1.5, Alternatives Considered But Eliminated From Further Analysis).

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1 to the County Board of Supervisors and recommend that a
2 power study be conducted for the County, for Nogales and the
3 County to deal with these issues.

4 The supervisors took it into consideration, and
5 they agreed. And so they decided they were going to meet
6 with the City of Nogales and form a Joint Energy Commission,
7 a commission on energy.

8 And they did that. I do have an executive
9 summary, which I will give you for the record as soon as I
10 finish.

11 But basically the findings of the -- they went
12 forward to the Board of Supervisors. A study was done.
13 It's dated the 8th of June, 2001. They appointed an
14 11-person commission, several engineers on it. In fact,
15 Mr. Magruder was on it.

PH-1 16 And the bottom line they did a cost/benefit
17 analysis. And my feeling is they represented very well the
18 community down here and the needs, the produce, maquilas and
19 that sort of thing.

20 So what I have is a summary of what they did. And
21 if you would like, the complete thing is about six inches,
22 so I just have a summary.

23 The bottom line they did support the need long
24 term. The concern was that the existing power line was
25 coming to an end insofar as power service is concerned

Comment No. PH-1

The Federal agencies have reviewed the document provided by the commentor. The ACC is vested with the state's authority to decide how it believes energy should be furnished within Arizona's borders (for example, the need for and effectiveness of transmission lines within its borders). Refer to the revised text in Section 1.1.2, The Origin of TEP's Proposal: TEP's Business Plan and the Proceedings of the Arizona Corporation Committee, that provides explanation of the jurisdictions and authorities of the state and Federal agencies, and their relationship to this NEPA analysis.

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PH-1 | 1 fairly soon, and they did strongly recommend the need for an
cont. | 2 alternate line so far. I will give you that information and
3 from the community standpoint and from this commission,
4 which I think represents the recommendations that were given
5 to the City of Nogales and the Board of Supervisors. That's
6 what they recommended.
7 That's all I have. Thank you.
8 MR. ANTHONY COMO: Thank you very much.
9 Mr. Bahti?
10 MR. KURT BAHTI: My name is Kurt Bahti. I am with
11 the Arizona Game and Fish Department and a wildlife
12 professional. So I will limit my comments, and I will try
13 and set a record for making my comments very short here.
14 And I will limit them to the mandate of the agency that I
15 work for.
16 Approximately a year ago I went on a field trip
17 with a couple of other members of our agency, the United
18 States Forest Service, quite a few other private groups that
19 TEP put on to take a look at the corridor. And we were
20 informed at the time that the ACC had directed TEP to just
21 look at the western corridor, which that actually quite
22 piqued my interest. It seemed like it was usurping a public
23 comment process if they were just telling them to look at
24 just the western corridor.
25 We heard rumors as to why. I won't even go into

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KB-1

1 those because I have no idea for sure what the reason was
2 for them to pick the western corridor.

3 I would like to state that the western route would
4 cause the greatest amount of habitat loss and degradation as
5 far as wildlife is concerned. But I believe it was the
6 first speaker, Greg, spoke about the esthetic value over
7 there, and it goes much, much beyond that.

8 Everybody else has spoken about when, if or how or
9 whatever of the power line should be built and threw around
10 a lot of numbers, and my mind is swimming in numbers,
11 probably like mired in numbers, I learned a lot tonight, but
12 if this is to be built, I strongly, strongly recommend both
13 for the agency and as a wildlife professional do not use the
14 western corridor. It certainly from the fiscal standpoint
15 is the most expensive route, and secondly, it is the most
16 damaging to the wildlife habitat. Choosing that western
17 route would be a travesty against our natural resources.

18 That's all I've got.

19 MR. ANTHONY COMO: Thank you very much.

20 Dan Bell?

21 MR. DAN BELL: As you said, my name is Dan Bell.

22 And I represent ZZ Cattle Corporation and Bear Valley Ranch.

23 And basically I'm here. I really don't have a position for

24 or against the power line. My position is against the

25 route, just as Kurt had mentioned previously. Not only will

Comment No. KB-1

Sections 3.3 and 4.3 discuss the existing biological resources, and potential impacts to biological resources from the proposed project, including mortality, interference with breeding, loss of habitat, and loss of forage plants under all of the action alternatives. None of the impacts to wildlife would result in a population decline on a regional scale.

Section 4.5 states that the cost for each alternative would be approximately \$70 million, plus or minus \$7 million.

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DB-1

1 it detract from the beauty of the area in Bear Valley, but
2 it will provide no benefit for that area.

3 Currently the ranch in the area utilizes solar
4 power and propane for its day-to-day needs, so I don't see
5 the justification for running a power line through there.
6 It's not going to benefit the area it's going through.

7 Furthermore, I have had quite a bit of experience
8 dealing with the Endangered Species Act and extremist
9 environmental groups in regard to the Endangered Species
10 Act, and undoubtedly you will have some of these groups file
11 lawsuits if they haven't already against government
12 agencies, probably the Department of Energy, the Forest
13 Service and maybe even the BLM and have an injunction
14 imposed on this.

15 And the way they will do it is through the
16 Endangered Species Act. They will most likely sue on behalf
17 of the endangered species, which will in turn cost the
18 taxpayers more money, and I don't know if Mr. Magruder has
19 included this in some of his figures, but this will be costs
20 directly related to the taxpayers because under, I am not
21 sure what the section is, it might be Section 7 or Section 9
22 of the ESA, a group or any individual can sue on behalf of
23 the endangered species and get their funds compensated for
24 them.

25 So if they win, they get paid by the taxpayers for

Comment No. DB-1

The ACC is vested with the state's authority to decide how it believes energy should be furnished within Arizona's borders (for example, the need for and effectiveness of transmission lines within its borders). Refer to the revised text in Section 1.1.2, The Origin of TEP's Proposal: TEP's Business Plan and the Proceedings of the Arizona Corporation Committee, that provides explanation of the jurisdictions and authorities of the state and Federal agencies, and their relationship to this NEPA analysis.

The Western Corridor passes through the area known as Bear Valley near where the Western Corridor separates from Ruby Road and heads to the north. This EIS evaluates the affected environment and potential environmental impacts (both negative and positive) of each alternative and the No Action Alternative, including the portion of the Western Corridor in the vicinity of Bear Valley.

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DB-2

1 fighting the fight, but they are suing an agency that the
2 taxpayers have to support as well. So we're fighting both
3 ends of the fight here.

4 Some of the species that are of concern would be
5 the Sonoran chub. It's on the watershed just above. The
6 Sonoran chub, now whether it's an endangered species or not
7 is questionable just because of the boundary issue. It
8 occurs for hundreds and hundreds of miles in Mexico, and
9 it's just in a short reach of stream in the United States.

10 That's what triggered its listing. But as well as the
11 jaguar has just been photographed less than a mile, I think,
12 from where the proposed line is going through. And that's a
13 high priority species right now with a lot of environmental
14 groups as well as State agencies and wildlife service.

15 We have got Mexican spotted owl in the area,
16 lesser long-nosed bat. And then there is a proposed action
17 to release the Tarahumaran frog in the area, a frog that was
18 once in the area, and it was extricated for unknown reasons.
19 So there is going to be a trial to release some of that to
20 get it reestablished.

21 Not only is Bear Valley home for those, but it's a
22 haven for hunters from around the world. There is
23 commercial quail hunters come from all over the United
24 States and Canada to this area. There is javelina hunters.
25 There is white tail deer hunters. Mountain lion hunters

Comment No. DB-2

Sections 3.3 and 4.3 present a discussion of existing biological resources and analysis of potential impacts to biological resources, including impacts to endangered species. The Sonora chub is listed as a threatened species under the *Endangered Species Act* (ESA) of 1973.

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	1 come from far and wide. There was just an article about
	2 Bear Valley in Field and Stream Magazine about the mountain
	3 lion country and how good it is.
DB-3	4 I have a question on whether in selecting that
	5 route whether the power line will cause changes in wildlife
	6 distribution, thus affecting some of those visitors that
	7 undoubtedly come and spend money in the County, and if it
	8 does have an effect on wildlife distribution, how will it
	9 affect our livestock distribution as well?
	10 And we have got enough to deal with on that.
	11 I don't know, like I said before, I don't know, I
	12 don't have the time to study to see if the power line is
DB-4	13 needed or if it's not needed or what. But I do know that
	14 there is an existing right-of-way through the forest. And
	15 it's on one of the other alternatives. There is a question
	16 of whether or not that can be used. But I'm sure that can
	17 be looked into a little bit closer and would probably be
	18 preferred if they are going to actually go through forest,
	19 there is an existing right-of-way that already goes through
	20 there.
	21 Also, in the draft analysis they talked about road
DB-5	22 closures in there. And for every, I forget what it was, but
	23 for every certain amount of roads they create they are going
	24 to close a certain amount of roads.
	25 Well, we do rely on some of those roads, and I

Comment No. DB-3

Section 4.3.2, Vegetation and Wildlife, of the Final EIS has been revised to clarify that no changes in wildlife distribution are expected to occur on a regional scale as a result of the proposed project, although small animal species (e.g., small mammals, reptiles, amphibians, etc.) may be excluded from areas that are cleared for support structures or access roads as a result of loss of habitat. Because the ROW would not be fenced or otherwise separated from surrounding lands, no changes in livestock distribution would be expected as a result of the proposed project.

Comment No. DB-4

Section 3.1.1, Land Use, addresses the overlap of each corridor alternative with the existing Forest Transportation System and Utilities Corridor. The Central Corridor is outside of the existing utility corridor for approximately 2 mi (3.2 km) on the Coronado National Forest (compared to longer distances that the Western and Crossover Corridors are outside the utility corridor on the Coronado National Forest). Refer to Appendix H on the Forest Plan amendments that would be necessary for each of the three corridor alternatives.

Comment No. DB-5

Section 4.12.1, Transportation, has been revised to clarify that roads to be closed on the Coronado National Forest to maintain the existing road density would be identified through the Special Use Permit process. This process would include USFS personnel who would coordinate the road closures with other multiple uses, such as grazing permits, on the Coronado National Forest.

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DB-5
cont.

1 didn't mention it before, but I am also a member or I am
2 actually an officer of the Arizona Cattle Growers
3 Association, and I would just like it stated here that if
4 any road closures are going to be adopted that they be gone
5 over with the ranching community, so that needed roads won't
6 be abandoned and the right roads are closed.

7 And basically that's all I have to say.

8 MR. ANTHONY COMO: Thank you very much.

9 At least for the moment we have exhausted all

10 people who have requested to speak.

11 We got the room for another hour. Do you want to
12 take a five, 10 minute break, grab something to drink, chat
13 and come on back, and maybe some of you might want to say
14 something else or some of you may want to speak for the
15 first time. We will close the record temporarily.

16 (Whereupon a recess was taken from 6:05 P.M. to
17 6:29 P.M.)

18 MR. ANTHONY COMO: Ladies and gentlemen, we're
19 going to reopen the record. We have had a request from
20 Mr. Santello to put some more information on the record. So
21 Mr. Santello, whenever you are ready would be okay.

22 MR. BARTON SANTELLO: Barton Santello from
23 Arivaca.

BS-11

24 A couple of items in the DEIS I would like to
25 bring up. One is the jaguar habitat. I felt that wasn't

Comment No. BS-11

Sections 3.3 and 4.3 describe the existing biological resources and potential impacts to these resources, including jaguar.

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BS-11
cont.

1 discussed or wasn't given too much emphasis, but I believe
2 the Coronado National Forest being up against the Mexican
3 border there will be, if not now, is being discussed as a
4 prime area for the northern range of the jaguar. And there
5 is a move afoot by some groups in this country,
6 environmental groups, to secure some areas in Mexico that
7 would be and work with the government there to provide
8 habitat. And this area here would be a prime area for the
9 southern United States for the jaguar to be, I am not saying
10 to be reintroduced but just for its range to be protected,
11 that it could still come in this area. So I thought that
12 needs some more emphasis.

13 I have a question on the quarter mile corridor
14 study area I believe it's referred to in the DEIS. A lot of
15 people don't understand what that means.

16 I know there is maybe a smaller right-of-way, but
17 if a permit is granted, is that whole quarter mile -- I
18 assume TEP wants that to be able to site their lines around
19 obstructions and things, but there is a concern that's a
20 big, wide corridor, and as we talked about earlier, I don't
21 know what their rights are with this. Can they lease this
22 corridor to other people? There is a lot of questions about
23 what this entails, and as far as cumulative impacts, and
24 could they negotiate with another utility to put more power
25 lines in the future? Once they get this permit does that

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1 encourage other development along that line? That's a
2 question.

3 MR. ANTHONY COMO: I can, not to engage in
4 discussion, but I could sort of explain what that's about.
5 This is a study corridor. Every time we do an EIS anyplace
6 for things like that, I think Mr. Magruder was very eloquent
7 last night and indicated that there aren't any engineering
8 level information, like locations of poles and stuff, and at
9 this point in any kind of application that we've ever gotten
10 it's a concept of a generalized route. So what we do is we
11 identify a swath, a corridor, and we study what the impacts
12 would be if a line were developed anyplace inside that study
13 envelope.

14 That is not a right-of-way that if a line were
15 approved for development in the western corridor that
16 everybody else could then build something. That has nothing
17 to do with right-of-way or easement. It's just a study
18 envelope of possible effects that would occur if something
19 were built anyplace inside that corridor. That's all that
20 is.

21 MR. BARTON SANTELLO: Thank you for that
22 clarification.

23 A little smaller issue, the map that is always
24 shown at these hearings I would like to just request that
25 the Town of Arivaca be put on that map. I am not sure if

BS-12

Comment No. BS-12

The Town of Arivaca has been added to figures where appropriate in the Final EIS.

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BS-12 cont.	<p>1 it's an oversight or intent, but the people in Arivaca have 2 been speaking out against this line and it affects them. 3 They will be driving to and from the Green Valley area to 4 work and Tucson, and they will be going under the poles as 5 they cross Arivaca Road. 6 MS. ELLEN RUSSELL: Can you show me approximately 7 where it is?</p>
BS-12 cont.	<p>8 MR. BARTON SANTELLO: Yes. It would be just about 9 right here. 10 And so it could be just an omission because of the 11 size of the map. But it may imply that maybe it doesn't 12 want to show that there is a town there and people will be 13 impacted, so I thought maybe we can include the town. 14 I did have a question about the poles and whether</p>
BS-13	<p>15 they are going to be lattice or the monopole or the lattice 16 towers or whatever you call them. Yes. That is not too 17 clear in there. It just says either. It would be good to 18 know like through the National Forest area what at least in 19 sections of something where they think they would be putting 20 the lattice structures and the monopoles.</p>
BS-14	<p>21 The 20 miles of road through the National Forest 22 is a little disturbing. Huge impact there. I've heard, I 23 don't know for sure, I have been trying to get some 24 information, this area has been proposed at one time for 25 wilderness designation. So whether that is pursued in the</p>

Comment No. BS-13

The exact type of structure that would be used in each location has not been decided as it depends on a number of factors related to analysis of environmental impacts and engineering design of the project. The primary support structures to be used for the transmission line would be self-weathering monopoles, and dulled, galvanized steel lattice towers would be used in specific locations for engineering reasons or to minimize overall environmental impacts

Comment No. BS-14

Chapter 4 evaluates the environmental impacts of each of the proposed alternatives, including the temporary roads required for construction and the permanent roads required for operation.

Regarding the citizen-initiated proposal for an addition to the National Wilderness Preservation System, the Federal agencies are aware that environmental groups are interested in achieving Federal wilderness designation for a large portion of the Tumacacori EMA. Maps provided by commentors indicate that all corridor alternatives considered in this EIS cross the area suggested for wilderness designation. Presence of a transmission line would not necessarily preclude wilderness designation, as Forest Service regulations (36 CFR 293.15) provide for the establishment and subsequent maintenance of transmission lines in wilderness areas. Information about the wilderness proposal has been added to Section 5.2.4 of the FEIS as a potential future action.

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BS-14 cont.	<p>1 future or not, that is speculation, but that just shows that 2 it is a very special place and that 20 miles of roads is not 3 something that we would like to see.</p>
BS-15	<p>4 It is also not clear in the DEIS about restoration 5 of sites that are disturbed areas or revegetation, to what 6 extent will TEP restore an area and who would have a say 7 whether it's acceptable how they restore something? Under 8 whose jurisdiction? Would it be Forest Service? Would 9 there be biologists involved? That sort of thing. So 10 that's not clear. 11 And then what time frame would they have to do 12 this? And would there be penalties? And that can be a 13 whole issue in itself.</p>
BS-16	<p>14 And the other thing, I believe it said in the DEIS 15 or I read it one time that power lines would never be 16 removed or TEP would not have to remove the lines. And in 17 an age where we potentially could move to new technologies 18 and fuel cells and things where maybe the need for lines in 19 communities and things would go away because in the future 20 the fact that the lines some day could be obsolete is 21 possible. Just have them hanging there is another reason 22 why maybe they shouldn't be built at all. 23 I feel there is a potential for decentralization 24 of power in smaller plants and things where it could be 25 locally produced and distributed rather than the long</p>

Comment No. BS-15

TEP would restore access and construction areas not required for maintenance in accordance with agreements with landowners and managers. All construction areas not needed for normal maintenance would be graded to their original contour or to blend with adjacent landforms (see Section 2.2.3). For vegetation restoration to lands managed by Federal agencies, each Federal agency would decide (with input from any specialists deemed appropriate by the Federal agency) which mitigation measures would be appropriate for inclusion as conditions of a permit. All mitigation measures would be outlined in each agency's ROD.

Comment No. BS-16

The EIS does not address the final disposition of the proposed transmission lines. It is assumed that the transmission lines, if built, would be utilized for the reasonably foreseeable future. It would be speculative to assess what might occur beyond that.

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BS-16
cont.

1 transmission line. So the fact that the power lines would
2 never come down is disturbing in some sense.

3 So that's all I have.

4 MR. ANTHONY COMO: Thank you, Mr. Santello.

5 We seem to have lost quite a few people. Do you
6 want to go again?

7 MR. MARSHALL MAGRUDER: I have got a couple of
8 little points.

9 Ms. Russell might remember during the PNM hearings
10 and I read through the transcripts of the early 2000
11 hearings they had, the seven scoping meetings, in one of
12 them the PNM representative indicated that there were seven
13 companies looking at installing transmission lines to
14 Mexico. We have only talked about two. I don't know who
15 the other five are but --

16 MR. ANTHONY COMO: Neither do we. No one has ever
17 come to us.

18 MR. MARSHALL MAGRUDER: I know. But seven sets of
19 transmission lines would --

20 MS. ELLEN RUSSELL: I think we may have been
21 talking about the length of the border --

22 MR. MARSHALL MAGRUDER: I don't know about that.

23 MS. ELLEN RUSSELL: -- not Arizona.

24 MR. MARSHALL MAGRUDER: I thought it was seven. I
25 just think that that's what in my mind is that if I am only

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1 looking at two companies here and there is five more in the
2 wings, there is something that's going on in the cumulative
3 world that really is going to accumulate a lot of copper or
4 aluminum or something in this state hanging over us.

5 MR. ANTHONY COMO: That was everything from
6 Brownsville to San Diego.

7 MR. MARSHALL MAGRUDER: You mentioned just a
8 little while ago my eloquence last night discussing siting.
9 I really do believe we need to figure out where these things
10 are going. I'm an engineer. I site things. I know the
11 details when I write the proposal. It's common for us for
12 four or five companies to write proposals. We have the
13 engineering drawings when we submit our proposals. Only one
14 of the five companies wins. The other four loses. That's
15 the way it works in most industries.

16 This industry, unless this is the utility sloppy
17 engineering management process with rust colored poles, if
18 that's the way they do business, I get very upset at poor
19 engineering. They really should, I think, to answer the
20 questions site them. If they don't like it the first time,
21 site it again. Remove it. And that's what engineers do.
22 Magruder rule of thumb it's not any good until Rev C,
23 Revision C. Then you know you are getting into the target.
24 But you got to get the first one out there. They still
25 haven't got a good original one to work from.

MM-3

Comment No. MM-3

TEP has not finalized the placement of the 125-ft (38-m) ROW within the 0.25-mi (0.40-km) wide study corridors because the precise siting would involve input from cultural, biological, and visual specialists, to identify and minimize impacts to each area of land to be disturbed.

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MM-4

1 Another subject. Mrs. Kurtz mentioned it last
 2 night about the gas line, natural gas line/electric line
 3 interference problem.

4 The radiated energy from an electric line goes
 5 into the ground. A gas line is made out of steel. Steel
 6 will pick up the radiated electricity from the electric
 7 line.

8 Therefore, the gas line gets induced electricity
 9 and gets charged up with energy. There are some problems
 10 with that. When somebody at their stove touches their stove
 11 they are going to get a shock. And that's one set of
 12 hazards, induced electricity.

13 The second hazard from the electric line to the
 14 gas line is that the changes of the balance of the electric
 15 field around the gas line. Gas lines corrode. Gas lines
 16 are designed with a cathodic protection system to reduce
 17 their erosion or rust.

18 The present gas line, there are actually two
 19 lines, are 6-1/2 and 4-1/2 inch lines. They were installed
 20 in the late '50's. I am not sure technology has improved,
 21 but they are old gas lines.

22 They actually have a copper wire down the center
 23 of each gas line with four-tenths of a volt DC impressed
 24 into the gas line so it reduces the rust that occurs in the
 25 gas line.

Comment No. MM-4

Information supplied by EPNG indicates that there is only one natural gas pipeline in the area, as discussed in Section 3.11, Infrastructure, and that this pipeline is 6 inches (15 cm) in diameter. EPNG indicated that there are not any plans for expansion of this gas pipeline in the project vicinity or across the U.S.-Mexico border (EPNG 2004).

A minimum distance of 100 ft (30 m) would be maintained between any of the proposed transmission line structures and the edge of the existing EPNG pipeline ROW, in compliance with the Amended Certificate of Environmental Compatibility issued to TEP on October 29, 2001, ACC (see Section 4.10 of the Final EIS). As shown in Table 10-2 of the Final EIS, the Federal agencies consulted with EPNG regarding safety requirements, and EPNG concurred that the ACC's requirement is adequate.

Section 4.10, Human Health and Environment, of the Final EIS has been augmented to include a discussion of the safety considerations of locating a 345-kV transmission line in the vicinity of a natural gas pipeline. This discussion states that the natural gas would not carry electricity or otherwise present a shock hazard to residential gas users. Liability concerns and potential impacts from operating automobiles near gas vents are outside the scope of the EIS.

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MM-4
cont.

1 The parallel construction of gas line and electric
2 lines and the safe separation between the two is very poorly
3 understood. At the Corporation Commission there was no
4 standard that could be found for safely distancing high
5 voltage electric lines from gas lines.

6 There is another thing about the electric line.
7 When lightning hits it, it gets grounded someplace.
8 Wherever it gets grounded and if it's next to the gas line
9 that's another set of unique charges into the gas line.

10 This gas line operates at 809 pounds per square
11 inch. That's a lot of pressure. There are substations
12 alongside the gas line that vent gasoline, I mean natural
13 gas. They vent natural gas for up to 36 hours at a time.

14 When somebody has closed a valve and it's the
15 pressure release valve, that substation is, one of them is
16 in Tubac. And the neighbor of Ms. Kincaid, who lives next
17 to it, routinely smells natural gas in her house that is
18 blown in from the gas line.

19 Natural gas concentration is between approximately
20 5 and 15 percent explosive. We have thermal inversions in
21 the State of Arizona because we obviously have hot air
22 coming in from the sun, which means that you can trap
23 natural gas and get the five to 15 percent concentration. A
24 spark, even due to an automobile driving through can cause a
25 fuel explosion of a significant magnitude.

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MM-4
cont.

1 To solve this problem I had the State of Arizona
2 gas line safety administrator at the ACC hearings spend
3 hours on my questions on this subject. They came to the
4 conclusion that the Canadian Gas Association Technical
5 Report 105 was the best way to solve the problem.

6 In it it calculates through a formula and it
7 determines the safe distance between the gas line and the
8 electric line so that if the gas line ruptures and a fire
9 goes up it will not melt the conductors on the electric
10 line.

11 To me that is the least of my concerns. It is the
12 bottom -- safety is my number one concern. They didn't
13 handle that issue, number one.

14 Number two, the Corporation Commission used the
15 formula, which they didn't give us on the original
16 distribution because they didn't Xerox a page, but when they
17 distributed a second time, they included the formula. When
18 you calculate the formula for a 6-inch line, actually, it's
19 a 6-1/2 inch line, when you calculate it for a 6-1/2 inch
20 line, it says the safe standoff distance is 138 feet.

21 That's from the conductor to the gas line
22 138 feet. That's only the 6-1/2 inch line.

23 There is a 4-1/2 inch line. That one was ignored.

24 The other challenge with this 40-foot right-of-way
25 that's owned by El Paso Natural Gas is that they have a

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MM-4
cont.

1 Presidential Permit for a 16-inch natural gas line to
2 Mexico. It is installed today. They have business plans to
3 install a 20 or so inch natural gas line down there present
4 40-foot corridor into North Mexico because there is no
5 natural gas in Sonora.

6 That would be very beneficial. I know this is not
7 a gas thing, but it has an impact. That would be very
8 beneficial for our County because we now would have natural
9 gas in a place that does not have natural gas. The people
10 don't have to use charcoal, mesquite, propane and kerosene
11 to cook their meals. They can use natural gas.

12 I teach students from maquiladoras in Sonora, and
13 the women in my class would love a natural gas stove.

14 If there is anything that's painful, take your
15 propane tank to the corner every week and think if the guy
16 is going to partially or fully fill it up, and we have
17 enough propane to make it for a week before you have to go
18 back and get ripped off again.

19 So there is a desire, at least at the consumer
20 level, also, at the factory level. Natural gas has a lot of
21 benefits compared to other types of fuel.

22 The safe distance, the Arizona Corporation
23 Commission has a condition in their CDC that says that the
24 gas line has to be at least 100 feet, excuse me, let me say
25 it again, the electrical structure has to be at least

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MM-4
cont.

1 100 feet from the edge of the natural gas line right-of-way.
2 Using the formula it's 136 feet, at least 100 feet. Well,
3 that's okay.

4 But the question is if I was El Paso Natural Gas,
5 who we could not bring to the hearings because I can't
6 subpoena anybody, but they are a party to this, I think that
7 a memorandum of understanding between El Paso Natural Gas
8 and Tucson Electric to resolve the liability concerns on a
9 natural gas/electrical interaction, which I do not see as a
10 positive event if there is ever an interaction, that that
11 liability issue is solved before a permit is given for
12 putting in this line because the liability could easily be
13 in the hundreds of millions of dollars for a major natural
14 gas explosion.

15 The second thing is on this, not only do we need a
16 memorandum, TEP has not discussed this, they do not have a
17 working relationship with El Paso Natural Gas. The next
18 thing is the proper distance should be calculated.

19 I asked at those hearings would we see resistivity
20 measurements, resistance measurements of the soil because
21 it's a function of sand is different than mud which is
22 different than rock. And those type of measurements need to
23 be calculated to make sure that there is a safe separation
24 between these two right-of-ways. That has not been done.

25 I think this is a very important issue, and it's

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MM-4 cont.	1	very important for an academic sense because the standard
	2	that should be developed really needs to be an IEEE standard
	3	or American Gas Association standard that is useful for
	4	anybody when you have parallel electrical and natural gas
	5	systems.
	6	There is also the interference of an automobile or
	7	truck going underneath the power line, it picks up the
	8	charge due to induced electricity, and there is another
	9	problem there that needs to be looked at, especially if it's
	10	near the gas line, especially if there is between 5 and
MM-5	11	approximately 15 percent air-gas, natural gas mixture in the
	12	air because it's explosive.
	13	I think that's important. And the right-of-way
	14	width cannot be determined until you know that answer. And
	15	it's a safety issue. And to me safety is paramount. And I
	16	think that has to be solved before we really can look at any
	17	of these right-of-ways.
	18	I'm sorry. That's a little off the subject.
	19	The next subject is public notification. I was
	20	appalled to know that the Marley Ranch had not been
	21	notified. I am appalled, also, that people don't get
	22	letters. I am appalled to see that we get a nice little
	23	thing in the newspaper, public notice, but other than what
	24	your office sends out and a newsletter that's late and it's
	25	erroneous and it's not very factual comes out once in awhile

Comment No. MM-5

Section 1.6 of the Final EIS has been revised to explain the process conducted by the Federal agencies to invite public participation in the NEPA process, per CEQ requirements.

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MM-5 | 1 on an as to be case from Tucson Electric is all that the
 cont. | 2 public receives.
 3 There has never been a public meeting called by
 4 Tucson Electric to discuss this transmission line. How
 5 people find out is come to these meetings. We don't hear
 6 their side. Their side has never been presented, never,
 7 other than in meetings of briefings that are 20 minute
 8 little deals. That's not what the public wants. The public
 9 needs to know the details on this system.
 10 New subject. I submitted a scoping letter. Do
 11 you remember my scoping letter?
 12 MR. ANTHONY COMO: It was one page?
 13 MR. MARSHALL MAGRUDER: No. It was 90 attachments
 14 and six inches thick. Probably a little larger letter as I
 15 think I have ever seen in my life.
 16 I'm going to complete a compliance matrix to see
 17 how well you did. So I am just giving you a little warning.
 18 That will show up in my 14th of October response to you
 19 guys.
 20 Another subject that has hardly been discussed and
 21 that's involving security. There is several levels of
 MM-6 | 22 security, Homeland Security, and power line integrity
 23 security.
 24 Homeland Security involves our National Guard and
 25 our Immigration Service in whatever name they are being

Comment No. MM-6

As documented in Table 10-2 of the Draft EIS, the U.S. Border Patrol did not respond to DOE's solicitation of comments regarding the proposed project prior to publication of the Draft EIS, and therefore, the Draft EIS addressed in a general manner the potential impacts on illegal immigration and U.S. Border Patrol operations and the resulting environmental impacts.

In response to public comments, the Federal agencies again solicited comments from the U.S Border Patrol. Based on the U.S. Border Patrol's response (USBP 2004) to the Federal agencies' request, the Federal agencies have revised Sections 4.1.1, Land Use; Section 4.12, Transportation; and Chapter 5, Cumulative Impacts of the Final EIS. The U.S. Border Patrol's response generally re-enforced the information on which the relevant analysis in the Draft EIS was based. The U.S. Border Patrol stated that the roads associated with the construction and maintenance of the proposed project would contribute to an increase in illegal immigrant and narcotic smugglers in the area and affect U.S. Border Patrol operations. Given the existing magnitude of the influx of illegal immigrants (USBP 2004), any impacts on medical facilities from incrementally increased illegal immigration associated with the proposed project is speculative and beyond the scope of the EIS. Section 4.5, Socioeconomics Environmental Effects, analyzes the potential impact of the proposed project on community services (including hospitals, as described in Section 3.5, Socioeconomics Affected Environment).

Refer to the response to Comment MM-4 above regarding pipeline safety.

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MM-6 cont.	<p>1 called this week, our local Sheriff's Department, the City 2 of Nogales police force, and all of those interactions will 3 be involved in this transmission line system because the 4 amount of immigration that they will bring will bring with 5 it women having babies, will bring with it people breaking 6 legs, will bring with it rattlesnake bites, and that's all 7 personal damage and additional cost to the hospital system 8 in this County.</p> <p>9 Our hospitals are broke, and that needs to be 10 looked at. How are our hospitals and medical facilities 11 going to be compensated for the additional traffic on this 12 new interstate moving through either the National Forest or 13 the gas line?</p>
MM-7	<p>14 In addition to that, there is another little 15 section back in Chapter 9 of the EIS, and it's under the FAA 16 part. It talks about we don't know yet if balls, orange 17 balls and lights are required for these transmission lines.</p> <p>18 I asked that question from TEP. No. No way will we have 19 those. It's doubtful now.</p> <p>20 That should be resolved because that's a visual 21 integrity issue that should be resolved because the public 22 does not like to see one meter orange balls or flashing 23 lights or strobe lights marking the human interstate going 24 north. And I don't think those lights match the 25 requirements of the National Forest.</p>

Comment No. MM-7

The Federal agencies conducted consultation with Federal Aviation Administration (FAA) (see Table 10-1, and letter in Appendix A), and the FAA indicated that the only requirement would be to adhere to State of Arizona statutes in regard to tower construction. Table 2.2-2, TEP Mitigation Practices Included in the Proposed Action, measure number 7, has been revised to reflect this requirement. USFS agrees that visual markers on the proposed transmission line may increase impacts to visual resources, and therefore this measure is not recommended by USFS.

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MM-8

1 In addition to that, the Federal Aviation Agency
2 controls the air space. The United States Air Force
3 controls the air space. And it's being controlled through
4 the International Guard 167 fighter wing out of Tucson,
5 Arizona.
6 It's an air space called fuzzy one, military
7 operating area. It was mentioned a little while ago. It
8 goes down to 100 feet, and it runs right down the ridge
9 lines of the mountains here, the western route. It runs
10 from Arivaca Road to the border right here. So the whole
11 western route is in that air space.
12 The U.S. Air Force has very few places it can do
13 low level flying. Low level flying is a retired military
14 operation, is a very important skill that pilots have to
15 have.
16 We are now making a route that if anybody flies
17 east-west on low level pretty good chance we are going to
18 have a collision.
19 That safety issue was answered in this Draft EIS,
20 oh, we had a phone call and we're going to solve it later.
21 That requires a memorandum of understanding
22 because the Air Force has to change the flight information
23 publications, the air route mappings. The FAA has to inform
24 the air traffic control center, and a whole series of other
25 actions are required so that aircraft don't run into these

Comment No. MM-8

As presented in Chapter 10 and Appendix A of the Final EIS, the Federal agencies and TEP had initiated consultation with Davis Monthan Air Force Base regarding potential impacts of the proposed transmission line on military flight operation. In response to the consultation, the Davis Monthan Air Force Base stated no relevant issues with any of the proposed corridors. The proposed Western Corridor could impact the FUZZY Military Operating Area, controlled by the 162nd FG Airspace in Tucson. Subsequently, information regarding the proposed project has been forwarded to the 162nd FG Airspace Manager and a copy of the Draft EIS has been sent for review and comment. No comment has been received.

DOE and TEP have initiated consultation with the FAA regarding potential impacts of the proposed transmission line on flight operations. The FAA has indicated that the proposed project would not affect air traffic due to location and height of the transmission line structures. Refer to the letter from the FAA in Appendix A.

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1 power lines. And I don't think that's healthy for anyone.
2 MR. ANTHONY COMO: Mr. Magruder, we have got about
3 four minutes left before they are going to kick us out of
4 here.
5 MR. MARSHALL MAGRUDER: I am finished. Thank you
6 very much.
7 MR. ANTHONY COMO: Oh, I didn't mean to cut you
8 off cold there. I was just going to say you need to make an
9 end.
10 MR. MARSHALL MAGRUDER: I have about 60 pages of
11 other comments that I will submit. And I was just trying to
12 do a couple of loose ends, and because I think this is
13 important, and some of these things I spent a little time
14 on, but the gas line/electric line safety issue has caused
15 Mrs. Kincaid to move.
16 MR. ANTHONY COMO: Thank you.
17 Well, I guess we are going to wrap this up now. I
18 thank all of you for staying tonight and for coming out, and
19 you will be seeing our final document sometime in the
20 foreseeable future.
21 Thank you again for your patience and your
22 attention. Good night.
23 (Whereupon the hearing was concluded at 6:56 P.M.)
24 * * * *
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1 STATE OF ARIZONA
2 COUNTY OF PIMA
3
4 I, RAYNBO SILVA, Certified Court Reporter in the
5 County of Pima, State of Arizona, certify:
6 That the foregoing Public Hearing was taken before
7 me at the time and place therein set forth;
8 That the foregoing 54 pages comprise a full, true
9 and accurate transcription of my notes of said Public
10 Hearing;
11 That I am not of counsel nor attorney for or
12 related to either or any of the parties in this action, nor
13 interested in the outcome thereof.
14 DATED this 10th day of October, 2003.
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Raynbo Silva, RPR, CSR, CCR
Certified Court Reporter No. 50014